

1                   A bill to be entitled  
2       An act relating to water resources; amending s. 373.185,  
3       F.S.; revising the definition of Florida-friendly  
4       landscaping; deleting references to "xeriscape"; requiring  
5       water management districts to provide model Florida-  
6       friendly landscaping ordinances to local governments;  
7       revising eligibility criteria for certain water management  
8       district incentive programs; requiring certain local  
9       government ordinances and amendments to include certain  
10      design standards and identify specified invasive exotic  
11      plant species; requiring water management districts to  
12      consult with additional entities for activities relating  
13      to Florida-friendly landscaping practices; specifying  
14      programs for the delivery of educational programs relating  
15      to such practices; providing legislative findings;  
16      providing that certain regulations prohibiting the  
17      implementation of Florida-friendly landscaping or  
18      conflicting with provisions governing the permitting of  
19      consumptive uses of water are prohibited; providing  
20      construction; creating s. 373.187, F.S.; requiring water  
21      management districts to implement Florida-friendly  
22      landscaping practices on specified properties; requiring  
23      districts to develop specified programs for implementing  
24      such practices; amending s. 373.228, F.S.; requiring water  
25      management districts to consider certain information in  
26      evaluating water use applications from public water  
27      suppliers; conforming provisions to changes made by the  
28      act; amending s. 373.323, F.S.; revising application

29 requirements for water well contractor licensure;  
 30 requiring applicants to provide specified documentation;  
 31 amending s. 373.333, F.S.; authorizing an administrative  
 32 fine to be imposed for each occurrence of unlicensed well  
 33 water contracting; amending ss. 125.568, 166.048, 255.259,  
 34 335.167, 380.061, 388.291, 481.303, and 720.3075, F.S.;  
 35 conforming provisions to changes made by the act; revising  
 36 provisions requiring the use of Florida-friendly  
 37 landscaping for specified public properties and highway  
 38 construction and maintenance projects; providing an  
 39 effective date.

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. Section 373.185, Florida Statutes, is amended  
 44 to read:

45 373.185 Local Florida-friendly landscaping ~~Xeriscape~~  
 46 ordinances.--

47 (1) As used in this section, the term:

48 (a) "Local government" means any county or municipality of  
 49 the state.

50 (b) ~~"Xeriscape"~~ or "Florida-friendly landscaping  
 51 ~~landscape~~" means quality landscapes that conserve water, and  
 52 protect the environment, and are adaptable to local conditions, and  
 53 and ~~which~~ are drought tolerant. The principles of Florida-  
 54 friendly landscaping ~~Xeriscape~~ include planting the right plant  
 55 in the right place, efficient watering, appropriate  
 56 fertilization, mulching, attraction of wildlife, responsible

57 management of yard pests, recycling yard waste, reduction of  
58 stormwater runoff, and waterfront protection. The principles of  
59 Florida-friendly landscaping include practices such as landscape  
60 planning and design, ~~appropriate choice of plants,~~ soil  
61 analysis, ~~which may include the appropriate~~ use of solid waste  
62 compost, minimizing the use of efficient irrigation, ~~practical~~  
63 use of turf, ~~appropriate use of mulches,~~ and proper maintenance.

64 (2) Each water management district shall design and  
65 implement an incentive program to encourage all local  
66 governments within its district to adopt new ordinances or amend  
67 existing ordinances to require Florida-friendly Xeriscape  
68 landscaping for development permitted after the effective date  
69 of the new ordinance or amendment. ~~Each district shall adopt~~  
70 ~~rules governing the implementation of its incentive program and~~  
71 ~~governing the review and approval of local government Xeriscape~~  
72 ~~ordinances or amendments which are intended to qualify a local~~  
73 ~~government for the incentive program.~~ Each district shall assist  
74 the local governments within its jurisdiction by providing a  
75 model Florida-friendly landscaping ordinance Xeriscape code and  
76 other technical assistance. Each district may develop its own  
77 model or use a model contained in the "Florida-Friendly  
78 Landscape Guidance Models for Ordinances, Covenants, and  
79 Restrictions" manual developed by the Department of  
80 Environmental Protection. A local government Florida-friendly  
81 landscaping Xeriscape ordinance or amendment, in order to  
82 qualify the local government for a district's incentive program,  
83 must include, at a minimum:

84 (a) Landscape design, installation, and maintenance  
 85 standards that result in water conservation and water quality  
 86 protection or restoration. Such standards shall address the use  
 87 of plant groupings, soil analysis including the promotion of the  
 88 use of solid waste compost, efficient irrigation systems, and  
 89 other water-conserving practices.

90 (b) Identification of prohibited invasive exotic plant  
 91 species consistent with the provisions of s. 581.091.

92 (c) Identification of controlled plant species,  
 93 accompanied by the conditions under which such plants may be  
 94 used.

95 (d) A provision specifying the maximum percentage of  
 96 irrigated turf and the maximum percentage of impervious surfaces  
 97 allowed in a Florida-friendly landscaped ~~xeriscape~~ area and  
 98 addressing the practical selection and installation of turf.

99 (e) Specific standards for land clearing and requirements  
 100 for the preservation of existing native vegetation.

101 (f) A monitoring program for ordinance implementation and  
 102 compliance.

103

104 In addition to developing and implementing an incentive program,  
 105 each district ~~The districts also~~ shall work with local  
 106 governments, the Department of Environmental Protection, county  
 107 extension agents or offices, nursery and landscape industry  
 108 groups, and other interested stakeholders to promote, through  
 109 educational programs, ~~and~~ publications, and other activities of  
 110 the district authorized under this chapter, the use of Florida-  
 111 friendly landscaping ~~xeriscape~~ practices, including the use of

112 solid waste compost, in ~~existing~~ residential and commercial  
 113 development. In these activities, each district shall use the  
 114 materials developed by the department, the Institute of Food and  
 115 Agricultural Sciences at the University of Florida, and the  
 116 Center for Landscape Conservation and Ecology Florida-friendly  
 117 landscaping program, including, but not limited to, the Florida  
 118 Yards and Neighborhoods Program for homeowners, the Florida  
 119 Yards and Neighborhoods Builder Developer Program for  
 120 developers, and the Green Industries Best Management Practices  
 121 Program for landscaping professionals. Each district may develop  
 122 supplemental materials as appropriate to address the physical  
 123 and natural characteristics of the district. The districts shall  
 124 coordinate with the department and the Institute of Food and  
 125 Agricultural Sciences at the University of Florida if revisions  
 126 to the educational materials of the department or university are  
 127 needed. This section may not be construed to limit the authority  
 128 of the districts to require Xeriscape ordinances or practices as  
 129 a condition of any consumptive use permit.

130 (3) (a) The Legislature finds that the use of Florida-  
 131 friendly landscaping and other water use and pollution  
 132 prevention measures that conserve or protect the state's water  
 133 resources serves a compelling public interest and that the  
 134 participation of homeowners' associations and local governments  
 135 is essential to state water conservation and water quality  
 136 protection and restoration efforts.

137 (b) A deed restriction or covenant entered after October  
 138 1, 2001, or local government ordinance may not prohibit or be  
 139 enforced to prohibit any property owner from implementing

140 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or  
141 her land or create any requirement or limitation in conflict  
142 with any provision of part II of this chapter or a water  
143 shortage order, other order, consumptive use permit, or rule  
144 adopted or issued pursuant to part II of this chapter.

145 (c) A local government ordinance may not prohibit or be  
146 enforced to prohibit any property owner from implementing  
147 Florida-friendly landscaping on his or her land.

148 (4) This section may not be construed to limit the  
149 authority of the department or the districts to require Florida-  
150 friendly landscaping ordinances or practices as a condition of  
151 any permit under this chapter.

152 Section 2. Section 373.187, Florida Statutes, is created  
153 to read:

154 373.187 Water management district implementation of  
155 Florida-friendly landscaping.--Each water management district  
156 shall use Florida-friendly landscaping, as defined in s.  
157 373.185, on public property associated with buildings and  
158 facilities owned by the water management district and  
159 constructed after June 30, 2009. Each water management district  
160 shall also develop a 5-year program for phasing in the use of  
161 Florida-friendly landscaping on public property associated with  
162 buildings or facilities owned by the water management district  
163 and constructed before July 1, 2009.

164 Section 3. Section 373.228, Florida Statutes, is amended  
165 to read:

166 373.228 Landscape irrigation design.--

167 (1) The Legislature finds that multiple areas throughout  
 168 the state have been identified by water management districts as  
 169 water resource caution areas, which indicates that in the near  
 170 future water demand in those areas will exceed the current  
 171 available water supply and that conservation is one of the  
 172 mechanisms by which future water demand will be met.

173 (2) The Legislature finds that landscape irrigation  
 174 comprises a significant portion of water use and that the  
 175 current typical landscape irrigation system and Florida-friendly  
 176 landscaping ~~xeriscape~~ designs offer significant potential water  
 177 conservation benefits.

178 (3) It is the intent of the Legislature to improve  
 179 landscape irrigation water use efficiency by ensuring that  
 180 landscape irrigation systems meet or exceed minimum design  
 181 criteria.

182 (4) The water management districts shall work with the  
 183 Florida Nursery Nurserymen and Growers and Landscape  
 184 Association, the Florida Native Plant Society, the Florida  
 185 Chapter of the American Society of Landscape Architects, the  
 186 Florida Irrigation Society, the Department of Agriculture and  
 187 Consumer Services, the Institute of Food and Agricultural  
 188 Sciences, the Department of Environmental Protection, the  
 189 Department of Transportation, the Florida League of Cities, the  
 190 Florida Association of Counties, and the Florida Association of  
 191 Community Developers to develop landscape irrigation and  
 192 Florida-friendly landscaping ~~xeriscape~~ design standards for new  
 193 construction which incorporate a landscape irrigation system and  
 194 develop scientifically based model guidelines for urban,

195 commercial, and residential landscape irrigation, including drip  
 196 irrigation, for plants, trees, sod, and other landscaping. The  
 197 landscape and irrigation design standards shall be based on the  
 198 irrigation code defined in the Florida Building Code, Plumbing  
 199 Volume, Appendix F. Local governments shall use the standards  
 200 and guidelines when developing landscape irrigation and Florida-  
 201 friendly landscaping ~~xeriscape~~ ordinances. By January 1, 2011,  
 202 the agencies and entities specified in this subsection shall  
 203 review the standards and guidelines to determine whether new  
 204 research findings require a change or modification of the  
 205 standards and guidelines.

206 (5) In evaluating water use applications from public water  
 207 suppliers, water management districts shall consider whether the  
 208 applicable local government has adopted ordinances for  
 209 landscaping and irrigation systems consistent with the Florida-  
 210 friendly landscaping provisions of s. 373.185.

211 Section 4. Subsection (3) of section 373.323, Florida  
 212 Statutes, is amended to read:

213 373.323 Licensure of water well contractors; application,  
 214 qualifications, and examinations; equipment identification.--

215 (3) An applicant who meets the following requirements  
 216 shall be entitled to take the water well contractor licensure  
 217 examination ~~to practice water well contracting~~:

218 (a) Is at least 18 years of age.

219 (b) Has at least 2 years of experience in constructing,  
 220 repairing, or abandoning water wells. Satisfactory proof of such  
 221 experience shall be demonstrated by providing:

222       1. Evidence of the length of time the applicant has been  
 223 engaged in the business of the construction, repair, or  
 224 abandonment of water wells as a major activity, as attested to  
 225 by a letter from each of three of the following persons:

- 226       a. A water well contractor.
- 227       b. A water well driller.
- 228       c. A water well parts and equipment vendor.
- 229       d. A water well inspector employed by a governmental  
 230 agency.

231       2. A list of at least 10 water wells that the applicant  
 232 has constructed, repaired, or abandoned within the preceding 5  
 233 years. Of these wells, at least seven must have been  
 234 constructed, as defined in s. 373.303(2), by the applicant. The  
 235 list shall also include:

- 236       a. The name and address of the owner or owners of each  
 237 well.
- 238       b. The location, primary use, and approximate depth and  
 239 diameter of each well the applicant has constructed, repaired,  
 240 or abandoned.
- 241       c. The approximate date the construction, repair, or  
 242 abandonment of each well was completed.

243       (c) Has completed the application form and remitted a  
 244 nonrefundable application fee.

245       Section 5. Subsection (8) of section 373.333, Florida  
 246 Statutes, is amended to read:

247       373.333 Disciplinary guidelines; adoption and enforcement;  
 248 license suspension or revocation.--

249 (8) The water management district may impose through an  
 250 order an administrative fine not to exceed \$5,000 per occurrence  
 251 against an unlicensed person if ~~when~~ it determines that the  
 252 unlicensed person has engaged in the practice of water well  
 253 contracting, for which a license is required.

254 Section 6. Section 125.568, Florida Statutes, is amended  
 255 to read:

256 125.568 Conservation of water; Florida-friendly  
 257 landscaping ~~Xeriscape~~.--

258 (1) (a) The Legislature finds that Florida-friendly  
 259 landscaping ~~Xeriscape~~ contributes to the conservation,  
 260 protection, and restoration of water. In an effort to meet the  
 261 water needs of this state in a manner that will supply adequate  
 262 and dependable supplies of water where needed, it is the intent  
 263 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~  
 264 be an essential part of water conservation and water quality  
 265 protection and restoration planning.

266 (b) As used in this section, "Xeriscape" or "Florida-  
 267 friendly landscaping" has the same meaning as in s. 373.185  
 268 ~~landscape" means quality landscapes that conserve water and~~  
 269 ~~protect the environment and are adaptable to local conditions~~  
 270 ~~and which are drought tolerant. The principles of Xeriscape~~  
 271 ~~include planning and design, appropriate choice of plants, soil~~  
 272 ~~analysis which may include the use of solid waste compost,~~  
 273 ~~practical use of turf, efficient irrigation, appropriate use of~~  
 274 ~~mulches, and proper maintenance.~~

275 (2) The board of county commissioners of each county shall  
 276 consider enacting ordinances, consistent with the provisions of

277 s. 373.185, requiring the use of Florida-friendly landscaping  
 278 ~~Xeriscape~~ as a water conservation or water quality protection or  
 279 restoration measure. If the board determines that Florida-  
 280 friendly landscaping ~~Xeriscape~~ would be of significant benefit  
 281 as a water conservation or water quality protection or  
 282 restoration measure, especially for waters designated as  
 283 impaired pursuant to s. 403.067, relative to the cost to  
 284 implement Florida-friendly ~~Xeriscape~~ landscaping in its area of  
 285 jurisdiction, the board shall enact a Florida-friendly  
 286 landscaping ~~Xeriscape~~ ordinance. Further, the board of county  
 287 commissioners shall consider promoting Florida-friendly  
 288 landscaping ~~Xeriscape~~ as a water conservation or water quality  
 289 protection or restoration measure by: using Florida-friendly  
 290 landscaping ~~Xeriscape~~ in ~~any, around, or near facilities, parks,~~  
 291 ~~and other common~~ areas under its jurisdiction that ~~which~~ are  
 292 landscaped after the effective date of this act; providing  
 293 public education on Florida-friendly landscaping ~~Xeriscape~~, its  
 294 uses in increasing ~~as a~~ water conservation and water quality  
 295 protection or restoration ~~tool~~, and its long-term cost-  
 296 effectiveness; and offering incentives to local residents and  
 297 businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

298 (3) (a) The Legislature finds that the use of Florida-  
 299 friendly landscaping and other water use and pollution  
 300 prevention measures that conserve or protect the state's water  
 301 resources serves a compelling public interest and that the  
 302 participation of homeowners' associations and local governments  
 303 is essential to state water conservation and water quality  
 304 protection and restoration efforts.

305           **(b)** A deed restriction or covenant ~~entered after October~~  
 306 ~~1, 2001, or local government ordinance~~ may not prohibit or be  
 307 enforced to prohibit any property owner from implementing  
 308 ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or  
 309 her land or create any requirement or limitation in conflict  
 310 with any provision of part II of chapter 373 or a water shortage  
 311 order, other order, consumptive use permit, or rule adopted or  
 312 issued pursuant to part II of chapter 373.

313           **(c)** A local government ordinance may not prohibit or be  
 314 enforced to prohibit any property owner from implementing  
 315 Florida-friendly landscaping on his or her land.

316           Section 7. Section 166.048, Florida Statutes, is amended  
 317 to read:

318           166.048 Conservation of water; Florida-friendly  
 319 landscaping ~~Xeriscape~~.--

320           **(1) (a)** The Legislature finds that Florida-friendly  
 321 landscaping ~~Xeriscape~~ contributes to the conservation,  
 322 protection, and restoration of water. In an effort to meet the  
 323 water needs of this state in a manner that will supply adequate  
 324 and dependable supplies of water where needed, it is the intent  
 325 of the Legislature that Florida-friendly landscaping ~~Xeriscape~~  
 326 be an essential part of water conservation and water quality  
 327 protection and restoration planning.

328           **(b)** As used in this section, "Xeriscape" or "Florida-  
 329 friendly landscaping" has the same meaning as in s. 373.185  
 330 ~~landscape" means quality landscapes that conserve water and~~  
 331 ~~protect the environment and are adaptable to local conditions~~  
 332 ~~and which are drought tolerant. The principles of Xeriscape~~

333 ~~include planning and design, appropriate choice of plants, soil~~  
334 ~~analysis which may include the use of solid waste compost,~~  
335 ~~practical use of turf, efficient irrigation, appropriate use of~~  
336 ~~mulches, and proper maintenance.~~

337 (2) The governing body of each municipality shall consider  
338 enacting ordinances, consistent with the provisions of s.  
339 373.185, requiring the use of Florida-friendly landscaping  
340 ~~Xeriscape~~ as a water conservation or water quality protection or  
341 restoration measure. If the governing body determines that  
342 Florida-friendly landscaping ~~Xeriscape~~ would be of significant  
343 benefit as a water conservation or water quality protection or  
344 restoration measure, especially for waters designated as  
345 impaired pursuant to s. 403.067, relative to the cost to  
346 implement Florida-friendly ~~Xeriscape~~ landscaping in its area of  
347 jurisdiction in the municipality, the governing body ~~board~~ shall  
348 enact a Florida-friendly landscaping ~~Xeriscape~~ ordinance.  
349 Further, the governing body shall consider promoting Florida-  
350 friendly landscaping ~~Xeriscape~~ as a water conservation or water  
351 quality protection or restoration measure by: using Florida-  
352 friendly landscaping ~~Xeriscape~~ in any, ~~around, or near~~  
353 ~~facilities, parks, and other common~~ areas under its jurisdiction  
354 that ~~which~~ are landscaped after the effective date of this act;  
355 providing public education on Florida-friendly landscaping  
356 ~~Xeriscape~~, its uses in increasing ~~as a~~ water conservation and  
357 water quality protection or restoration ~~tool,~~ and its long-term  
358 cost-effectiveness; and offering incentives to local residents  
359 and businesses to implement Florida-friendly ~~Xeriscape~~  
360 landscaping.

361           (3) (a) The Legislature finds that the use of Florida-  
 362 friendly landscaping and other water use and pollution  
 363 prevention measures that conserve or protect the state's water  
 364 resources serves a compelling public interest and that the  
 365 participation of homeowners' associations and local governments  
 366 is essential to state water conservation and water quality  
 367 protection and restoration efforts.

368           (b) A deed restriction or covenant entered after October  
 369 1, 2001, or local government ordinance may not prohibit or be  
 370 enforced to prohibit any property owner from implementing  
 371 ~~Xeriscape~~ or Florida-friendly landscaping landscape on his or  
 372 her land or create any requirement or limitation in conflict  
 373 with any provision of part II of chapter 373 or a water shortage  
 374 order, other order, consumptive use permit, or rule adopted or  
 375 issued pursuant to part II of chapter 373.

376           (c) A local government ordinance may not prohibit or be  
 377 enforced to prohibit any property owner from implementing  
 378 Florida-friendly landscaping on his or her land.

379           Section 8. Section 255.259, Florida Statutes, is amended  
 380 to read:

381           255.259 Florida-friendly ~~Xeriscape~~ landscaping on public  
 382 property.--

383           (1) The Legislature finds that water conservation and  
 384 water quality protection and restoration are ~~is~~ increasingly  
 385 critical to the continuance of an adequate water supply and  
 386 healthy surface and ground waters ~~for the citizens of this~~  
 387 ~~state.~~ The Legislature further finds that "Florida-friendly  
 388 landscaping ~~Xeriscape~~," as defined in s. 373.185, can contribute

389 significantly to water ~~the~~ conservation and ~~of~~ water quality  
 390 protection and restoration. Finally, the Legislature finds that  
 391 state government has the responsibility to promote Florida-  
 392 friendly landscaping ~~Xeriscape~~ as a water conservation and water  
 393 quality protection and restoration measure by using Florida-  
 394 friendly landscaping ~~Xeriscape~~ on public property associated  
 395 with publicly owned buildings or facilities.

396 (2) As used in this section, "publicly owned buildings or  
 397 facilities" means those construction projects under the purview  
 398 of the Department of Management Services. It does not include  
 399 environmentally endangered land or roads and highway  
 400 construction under the purview of the Department of  
 401 Transportation.

402 (3) The Department of Management Services, in consultation  
 403 with the Department of Environmental Protection, shall adopt  
 404 rules and guidelines for the required use of Florida-friendly  
 405 landscaping ~~Xeriscape~~ on public property associated with  
 406 publicly owned buildings or facilities constructed after June  
 407 30, 2009 ~~1992~~. The Department of Management Services also shall  
 408 develop a 5-year program for phasing in the use of Florida-  
 409 friendly landscaping ~~Xeriscape~~ on public property associated  
 410 with publicly owned buildings or facilities constructed before  
 411 July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department  
 412 of Management Services shall take into account the provisions of  
 413 ~~guidelines set out in s. 373.185(2)(a)-(f)~~. The Department of  
 414 Transportation shall implement Florida-friendly ~~Xeriscape~~  
 415 landscaping pursuant to s. 335.167.

416           (4) (a) The Legislature finds that the use of Florida-  
 417 friendly landscaping and other water use and pollution  
 418 prevention measures that conserve or protect the state's water  
 419 resources serves a compelling public interest and that the  
 420 participation of homeowners' associations and local governments  
 421 is essential to state water conservation and water quality  
 422 protection and restoration efforts.

423           (b) A deed restriction or covenant entered after October  
 424 1, 2001, or local government ordinance may not prohibit or be  
 425 enforced to prohibit any property owner from implementing  
 426 ~~Xeriscape~~ or Florida-friendly landscaping landscape on his or  
 427 her land or create any requirement or limitation in conflict  
 428 with any provision of part II of chapter 373 or a water shortage  
 429 order, other order, consumptive use permit, or rule adopted or  
 430 issued pursuant to part II of chapter 373.

431           (c) A local government ordinance may not prohibit or be  
 432 enforced to prohibit any property owner from implementing  
 433 Florida-friendly landscaping on his or her land.

434           Section 9. Section 335.167, Florida Statutes, is amended  
 435 to read:

436           335.167 State highway construction and maintenance;  
 437 ~~Xeriscape~~ or Florida-friendly landscaping.--

438           (1) The department shall use and require the use of  
 439 Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in  
 440 s. 373.185(1), in the construction and maintenance of all new  
 441 state highways, wayside parks, access roads, welcome stations,  
 442 and other state highway rights-of-way constructed upon or  
 443 acquired after June 30, 2009 ~~1992~~. The department shall develop

444 a 5-year program for phasing in the use of Florida-friendly  
 445 landscaping ~~Xeriscape~~, including the use of solid waste compost,  
 446 in state highway rights-of-way constructed upon or acquired  
 447 before July 1, 2009 ~~1992~~. In accomplishing these tasks, the  
 448 department shall employ the guidelines set out in s.  
 449 373.185(2) (a) ~~—(f)~~.

450 (2) (a) The Legislature finds that the use of Florida-  
 451 friendly landscaping and other water use and pollution  
 452 prevention measures that conserve or protect the state's water  
 453 resources serves a compelling public interest and that the  
 454 participation of homeowners' associations and local governments  
 455 is essential to state water conservation and water quality  
 456 protection and restoration efforts.

457 (b) A deed restriction or covenant ~~entered after October~~  
 458 ~~1, 2001, or local government ordinance~~ may not prohibit or be  
 459 enforced to prohibit any property owner from implementing  
 460 ~~Xeriscape or Florida-friendly landscaping landscape~~ on his or  
 461 her land or create any requirement or limitation in conflict  
 462 with any provision of part II of chapter 373 or a water shortage  
 463 order, other order, consumptive use permit, or rule adopted or  
 464 issued pursuant to part II of chapter 373.

465 (c) A local government ordinance may not prohibit or be  
 466 enforced to prohibit any property owner from implementing  
 467 Florida-friendly landscaping on his or her land.

468 Section 10. Paragraph (a) of subsection (3) of section  
 469 380.061, Florida Statutes, is amended to read:

470 380.061 The Florida Quality Developments program.--

471 (3) (a) To be eligible for designation under this program,  
472 the developer shall comply with each of the following  
473 requirements which is applicable to the site of a qualified  
474 development:

475 1. Have donated or entered into a binding commitment to  
476 donate the fee or a lesser interest sufficient to protect, in  
477 perpetuity, the natural attributes of the types of land listed  
478 below. In lieu of the above requirement, the developer may enter  
479 into a binding commitment which runs with the land to set aside  
480 such areas on the property, in perpetuity, as open space to be  
481 retained in a natural condition or as otherwise permitted under  
482 this subparagraph. Under the requirements of this subparagraph,  
483 the developer may reserve the right to use such areas for the  
484 purpose of passive recreation that is consistent with the  
485 purposes for which the land was preserved.

486 a. Those wetlands and water bodies throughout the state as  
487 would be delineated if the provisions of s. 373.4145(1)(b) were  
488 applied. The developer may use such areas for the purpose of  
489 site access, provided other routes of access are unavailable or  
490 impracticable; may use such areas for the purpose of stormwater  
491 or domestic sewage management and other necessary utilities to  
492 the extent that such uses are permitted pursuant to chapter 403;  
493 or may redesign or alter wetlands and water bodies within the  
494 jurisdiction of the Department of Environmental Protection which  
495 have been artificially created, if the redesign or alteration is  
496 done so as to produce a more naturally functioning system.

497 b. Active beach or primary and, where appropriate,  
498 secondary dunes, to maintain the integrity of the dune system

499 and adequate public accessways to the beach. However, the  
500 developer may retain the right to construct and maintain  
501 elevated walkways over the dunes to provide access to the beach.

502 c. Known archaeological sites determined to be of  
503 significance by the Division of Historical Resources of the  
504 Department of State.

505 d. Areas known to be important to animal species  
506 designated as endangered or threatened animal species by the  
507 United States Fish and Wildlife Service or by the Fish and  
508 Wildlife Conservation Commission, for reproduction, feeding, or  
509 nesting; for traveling between such areas used for reproduction,  
510 feeding, or nesting; or for escape from predation.

511 e. Areas known to contain plant species designated as  
512 endangered plant species by the Department of Agriculture and  
513 Consumer Services.

514 2. Produce, or dispose of, no substances designated as  
515 hazardous or toxic substances by the United States Environmental  
516 Protection Agency or by the Department of Environmental  
517 Protection or the Department of Agriculture and Consumer  
518 Services. This subparagraph is not intended to apply to the  
519 production of these substances in nonsignificant amounts as  
520 would occur through household use or incidental use by  
521 businesses.

522 3. Participate in a downtown reuse or redevelopment  
523 program to improve and rehabilitate a declining downtown area.

524 4. Incorporate no dredge and fill activities in, and no  
525 stormwater discharge into, waters designated as Class II,  
526 aquatic preserves, or Outstanding Florida Waters, except as

527 activities in those waters are permitted pursuant to s.  
528 403.813(2) and the developer demonstrates that those activities  
529 meet the standards under Class II waters, Outstanding Florida  
530 Waters, or aquatic preserves, as applicable.

531 5. Include open space, recreation areas, Florida-friendly  
532 landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy  
533 conservation and minimize impermeable surfaces as appropriate to  
534 the location and type of project.

535 6. Provide for construction and maintenance of all onsite  
536 infrastructure necessary to support the project and enter into a  
537 binding commitment with local government to provide an  
538 appropriate fair-share contribution toward the offsite impacts  
539 which the development will impose on publicly funded facilities  
540 and services, except offsite transportation, and condition or  
541 phase the commencement of development to ensure that public  
542 facilities and services, except offsite transportation, will be  
543 available concurrent with the impacts of the development. For  
544 the purposes of offsite transportation impacts, the developer  
545 shall comply, at a minimum, with the standards of the state land  
546 planning agency's development-of-regional-impact transportation  
547 rule, the approved strategic regional policy plan, any  
548 applicable regional planning council transportation rule, and  
549 the approved local government comprehensive plan and land  
550 development regulations adopted pursuant to part II of chapter  
551 163.

552 7. Design and construct the development in a manner that  
553 is consistent with the adopted state plan, the applicable

554 strategic regional policy plan, and the applicable adopted local  
 555 government comprehensive plan.

556 Section 11. Subsection (3) of section 388.291, Florida  
 557 Statutes, is amended to read:

558 388.291 Source reduction measures; supervision by  
 559 department.--

560 (3) Property owners in a developed residential area are  
 561 required to maintain their property in such a manner so as not  
 562 to create or maintain any standing freshwater condition capable  
 563 of breeding mosquitoes or other arthropods in significant  
 564 numbers so as to constitute a public health, welfare, or  
 565 nuisance problem. Nothing in this subsection shall permit the  
 566 alteration of permitted stormwater management systems or  
 567 prohibit maintained fish ponds, Florida-friendly landscaping  
 568 ~~xeriscaping~~, or other maintained systems of landscaping or  
 569 vegetation. If such a condition is found to exist, the local  
 570 arthropod control agency shall serve notice on the property  
 571 owner to treat, remove, or abate the condition. Such notice  
 572 shall serve as prima facie evidence of maintaining a nuisance,  
 573 and upon failure of the property owner to treat, remove, or  
 574 abate the condition, the local arthropod control agency or any  
 575 affected citizen may proceed pursuant to s. 60.05 to enjoin the  
 576 nuisance and may recover costs and attorney's fees if they  
 577 prevail in the action.

578 Section 12. Paragraph (a) of subsection (6) of section  
 579 481.303, Florida Statutes, is amended to read:

580 481.303 Definitions.--As used in this chapter:

581 (6) "Landscape architecture" means professional services,  
 582 including, but not limited to, the following:

583 (a) Consultation, investigation, research, planning,  
 584 design, preparation of drawings, specifications, contract  
 585 documents and reports, responsible construction supervision, or  
 586 landscape management in connection with the planning and  
 587 development of land and incidental water areas, including the  
 588 use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s.  
 589 373.185, where, and to the extent that, the dominant purpose of  
 590 such services or creative works is the preservation,  
 591 conservation, enhancement, or determination of proper land uses,  
 592 natural land features, ground cover and plantings, or  
 593 naturalistic and aesthetic values;

594 Section 13. Subsection (4) of section 720.3075, Florida  
 595 Statutes, is amended to read:

596 720.3075 Prohibited clauses in association documents.--

597 (4) (a) The Legislature finds that the use of Florida-  
 598 friendly landscaping and other water use and pollution  
 599 prevention measures that conserve or protect the state's water  
 600 resources serves a compelling public interest and that the  
 601 participation of homeowners' associations and local governments  
 602 is essential to state water conservation and water quality  
 603 protection and restoration efforts.

604 (b) Homeowners' association documents, including  
 605 declarations of covenants, articles of incorporation, or bylaws,  
 606 ~~entered after October 1, 2001,~~ may not prohibit or be enforced  
 607 to prohibit any property owner from implementing ~~Xeriscape or~~  
 608 Florida-friendly landscaping ~~landscape~~, as defined in s.

609 | 373.185-~~(1)~~, on his or her land or create any requirement or  
610 | limitation in conflict with any provision of part II of chapter  
611 | 373 or a water shortage order, other order, consumptive use  
612 | permit, or rule adopted or issued pursuant to part II of chapter  
613 | 373.

614 | Section 14. This act shall take effect July 1, 2009.